

**PUBLIC HEALTH DEPARTMENT[641]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 144.3, the Department of Public Health hereby amends Chapter 95, "Vital Records: General Administration," Iowa Administrative Code.

The Iowa Department of Public Health, Bureau of Health Statistics, is continuing its effort to review and amend administrative rules to allow for processing through the electronic statewide vital records system and meet the needs of Department stakeholders.

These adopted amendments implement changes that have been made to Iowa Code chapter 144 in 2015 Iowa Acts, House File 662, to remove the requirement that a fee be charged for all searches of vital records when no record is found and no copy is issued and to allow county registrars access to all birth records available in the electronic vital records system.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2155C** on September 30, 2015. No public comments were received. The Department received comments from the Administrative Rules Review Committee that resulted in the following changes to the noticed amendments: In subrule 95.9(5) as revised, if a search is conducted and no record is on file, the state registrar or county registrar may retain the fee for the search. In subrule 95.9(6), clarification was added indicating the reasons why the state registrar could refuse an Affidavit of Non-Receipt and requiring the state registrar to provide written notice to the registrant of the reason and intention to refuse the Affidavit.

The Iowa Department of Public Health adopted these amendments on November 12, 2015.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 144.

These amendments will become effective January 13, 2016.

The following amendments are adopted.

ITEM 1. Adopt the following new definitions in rule **641—95.1(144)**:

*"Competent and disinterested person"* means an individual of legal age who is acquainted with both applicants who plan to marry.

*"Electronic access"* means authority given by the state registrar to a county registrar to access electronic vital records through the electronic statewide vital records system for purposes of retrieving information. The state registrar shall provide guidelines for electronic access and the retrieval of information from the electronic statewide vital records system.

*"Electronic statewide vital records system"* means the combined vital records system for registration of birth records, registration of death records, issuance of certified copies of vital records by the state registrar and county registrar, and fee accounting.

ITEM 2. Amend rule **641—95.1(144)**, definition of "Certified copy," as follows:

*"Certified copy"* means an official copy of a registered vital record that is authenticated by the state registrar in whose jurisdiction the record is registered or county registrar. A certified copy contains a statement certifying the facts are true and accurate as recorded, is printed on security paper, and has authentication seals and signatures. A certified copy excludes all entries indicated as confidential or for statistical information.

ITEM 3. Amend subparagraph **95.6(1)"a"(3)** as follows:

(3) If, following a search, no record is found and no certified copy is printed, the \$20 fee ~~shall~~ may be retained. On and after July 1, 2019, this fee will revert to \$15.

ITEM 4. Adopt the following new subrule 95.6(9):

**95.6(9) Retention of applications and reports.** An application for a certified copy of a vital record in Iowa shall be retained by the county registrar for a minimum of six months from date of issuance of the certified copy. All financial reports for vital records fees shall be retained by the county registrar for a minimum of three calendar years.

ITEM 5. Amend subrule 95.7(2) as follows:

**95.7(2)** Electronic devices, including but not limited to scanners, cameras, tablets, cell cellular phones or laptops, shall not be used to secure ~~information~~ images or copies from county vital records. Laptops or like devices may be allowed only for purposes of typing information into a genealogy software program or electronic document and as directed by the state registrar or county registrar.

ITEM 6. Amend subrule 95.7(4) as follows:

**95.7(4)** County registrars may issue uncertified copies of vital records held in the registrars' physical custody ~~and or accessible to the general public~~ through the electronic statewide vital records system, except those records excluded by statute or at the direction of the state registrar.

*a. and b.* No change.

ITEM 7. Amend subrules 95.7(7) to 95.7(9) as follows:

**95.7(7)** For records available in the electronic statewide vital records system, the state registrar shall send to the county registrars a list of all records that have been modified. County registrars shall, as directed by the state registrar, remove all forms of any vital record in their physical custody from the county vital records system if the vital record appears on the list of modified records. Records of births prior to July 1, 1995, that have been determined to be single parent births shall not be in the custody of the county registrar or accessible to the public. The county registrar shall allow the general public access to the electronic statewide vital records system to search as a public user as a right under Iowa Code chapter 22.

**95.7(8)** ~~Records of births on and after July 1, 1995, that have been determined to be single parent births shall be accessible to the public as a right under Iowa Code chapter 22.~~ For records not available in the electronic statewide vital records system, the state registrar shall send a copy of any modified vital record to the county of event and, if the record is a death record, to the county of residence.

**95.7(9)** ~~For a record of death registered on or after April 5, 2012, for a decedent who died outside of the county of the decedent's residence, the state registrar shall send a clearly marked copy of the decedent's death certificate and any amendments to the county registrar of the county of the decedent's residence. The county registrar shall incorporate the clearly marked copy of the county resident death certificate in the vital records system maintained by the county. Certified or uncertified copies of county resident death certificates shall be clearly marked as "county resident copy."~~

ITEM 8. Amend subrule 95.9(5) as follows:

**95.9(5)** If, after the search is conducted, no record is on file; and the state registrar or county registrar ~~shall issue~~ issues a "notification of record search" on certified paper, ~~and the fee for the search shall may~~ be retained pursuant to paragraph 95.6(1) "*a.*"

ITEM 9. Adopt the following new subrules 95.9(6) and 95.9(7):

**95.9(6)** If a certified copy of a vital record is issued and sent to the applicant using a mail service and the applicant does not receive the certified copy, the state registrar or the county registrar may replace the certified copy without an additional fee using an Affidavit of Non-Receipt. The applicant must contact the issuing registrar within 90 days of the date of request. A minimum of 30 days must have elapsed from the time the certified copy was mailed. The applicant shall read the instructions, complete the Affidavit of Non-Receipt and have the applicant's signature notarized. The original Affidavit of Non-Receipt and a photocopy of the applicant's driver's license must be reviewed by the issuing registrar before the certified copy can be replaced for no additional fee. The state registrar or county registrar may refuse any Affidavit of Non-Receipt when the state registrar or county registrar determines proof of receipt, fraud or misrepresentation. The state registrar shall give to the registrant a notice in writing of the state registrar's reason and intention to refuse the Affidavit of Non-Receipt.

**95.9(7)** If printed from the electronic statewide vital records system by a county registrar, the certified copy of a vital record shall be stamped by the issuing county registrar to reflect the county in which the certified copy was issued.

ITEM 10. Rescind paragraph **95.11(1)“b”**

ITEM 11. Reletter paragraph **95.11(1)“c”** as **95.11(1)“b.”**

ITEM 12. Amend subrule 95.12(2) as follows:

**95.12(2)** Confidential verifications of the facts contained in vital records may be furnished by the state registrar to any federal, state, county or municipal government agency or other entity in the conduct of the agency’s or entity’s official duties, subject to conditions the state registrar may impose to ensure that the verification is limited to official purposes. Confidential verification of the facts contained in vital records may be furnished by a county registrar to another county office, within the county jurisdiction, in the conduct of the county’s official duties, subject to conditions the state and county registrar may impose to ensure that the verification is limited to official purposes.

*a.* and *b.* No change.

ITEM 13. Amend **641—Chapter 95**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 144 as amended by 2015 Iowa Acts, House File 662.

[Filed 11/16/15, effective 1/13/16]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 12/9/15.